



**Kenya Anti – Corruption Commission v Njuguna & 3 others (Environment & Land Case 184 of 2010) [2024] KEELC 13238 (KLR) (12 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13238 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
ENVIRONMENT & LAND CASE 184 OF 2010  
LL NAIKUNI, J  
NOVEMBER 12, 2024**

**BETWEEN**

**KENYA ANTI – CORRUPTION COMMISSION ..... PLAINTIFF**

**AND**

**GILBERT MWANGI NJUGUNA ..... 1<sup>ST</sup> DEFENDANT**

**WILSON GACHAJA ..... 2<sup>ND</sup> DEFENDANT**

**JIMMY KIMARU KIRATU ..... 3<sup>RD</sup> DEFENDANT**

**ESKON RUMWA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

**I. Introduction**

1. Before this honorable court is a Notice of Motion application dated 18<sup>th</sup> September, 2024 ostensibly by one person perpetrated as being Eskon Rumwa the 5<sup>th</sup> Defendant/Applicant herein. The application was filed against the Plaintiff/Respondent, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents
2. It was brought under the provisions of Articles 40 (3), 50(1) of Constitution of Kenya 2010, Sections 1A, 1B and 3A of the Civil Procedure Rules 2010.
3. During the Ex - Parte hearing of the application, the Learned Counsel for the 5<sup>th</sup> Defendant/Applicant emphatically informed Court that the parties were properly served. She indicated that despite of the said service, none of the parties bothered to file any responses and therefore the Honourable Court should allow the application and grant all the prayers sought thereof. Despite of this, in abundance of caution and circumspect, the Honorable Court undertook to thoroughly reflect and deliberate on the matter more keenly and thereafter decide on its own merit.



4. From the very onset, it is instructive to note that this is a matter that borders and metes on the breach of Professional integrity, ethics and etiquettes by practicing Advocates in the course of rendering professional legal services to their clients contrary to the provision of the Advocates Act, Cap. 16.

## II. The 5<sup>th</sup> Defendant/Applicant's Case

5. The 5<sup>th</sup> Defendant/Applicant sought for the following orders: -
  - a. Spent.
  - b. That pending the hearing and determination of this application inter parte, this Honorable Court be pleased to arrest the Judgment which is set for delivery on 18<sup>th</sup> September, 2024 and any other proceedings relating thereto.
  - c. That the 5<sup>th</sup> Defendant/Applicant be served with all the summons, pleadings and/or all other relevant documents in the matter and subsequently be given leave to file their Defence in the case.
  - d. That this Honorable Court be pleased to grant the 5<sup>th</sup> Defendant/Applicant leave to cross examine all the witnesses that have testified and subsequently an opportunity to defend themselves.
  - e. That the Honorable Court be pleased to make such orders as it deems just including if need be for the cross examination of the process servers that purported to have served the Defendants.
6. The application is premised on the grounds testimonial facts and the averments made out under the 13 Paragraphed Supporting Affidavit of Eskon Rumwa dated and sworn the 18<sup>th</sup> September, 2024 together with annexures marked as "ER" annexed thereto. He averred as follows: -
  - a. He was the male adult of sound mind and understanding and the 5<sup>th</sup> Defendant/Applicant herein thus well versed and competent to swear this affidavit.
  - b. As the 5<sup>th</sup> Defendant/Applicant he was joined on the matter as a party but had never been served with the relevant documents which had deprived him an opportunity to understand the proceedings and adequately prepare his Defence – as required under Article 50 (1) of Constitution of Kenya 2010 on fair hearing.
  - c. He had been in actual and continuous occupation of the subject property being LR. No. Mombasa Municipality/Block XXVI/933 (Hereinafter referred to as "The Suit Land") over twenty (20) years with his family which established a significant equitable interest in the property – Annexed copies of the photographs evidencing the occupation.
  - d. He had faced intimidation and threats from individuals claiming that he was falsely asserting ownership of the subject property necessitating him to apply for injunction orders from the lower court.
  - e. Recently the same individuals came to the suit property claiming that he was facing imminent eviction and they would soon take over the property.
  - f. Despite being a party to this case he had never been heard nor served with any document relating to the proceedings.,
  - g. He just found out about the impending Judgment on 18<sup>th</sup> September, 2024.



- h. Should the matter proceed on for judgment delivery without his participation he would suffer severe prejudice and would have been denied an opportunity to present his case and to challenge the claims against him which would result in an unjust and inequitable outcome.
- i. This had necessitated him to instruct a Counsel to confirm if this was the position and they did so by perusing the court file.
- j. He became aware of the present issues only when the third parties came to the property and informed him of the anticipated take over due to the forthcoming Judgment.
- k. The indirect notification underscores the severe irregularities and further exacerbates the Defendants anxiety and distress.
- l. The threat of eviction and the procedural deficiencies had caused him significant distress and frustration.
- m. The abrupt and unexpected nature of these developments had disrupted his life. Prompting him to urgently instruct Counsel in in order to protect his interests and his right to own property as enshrined under the provision of Article 40 of the Constitution of Kenya 2010.
- n. In light of the forgoing it was vital that this application be heard and determined on an expedited basis to ensure that justice was served and to prevent him from further prejudice.
- o. Granting the request would not prejudice the Respondent in any manner.

#### **The Responses by the Plaintiff, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents**

- 7. As indicated above, according to the Learned Counsel - M/s. Mbogua Advocate for the 5<sup>th</sup> Defendant/Applicant, despite of service, there were no responses by the Plaintiff, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents and hence the court will just proceed to deal with the application on its merit.
- 8. However, the Honorable Court has noted from the onset that when the said Counsel for the 5<sup>th</sup> Defendant/Applicant, appeared in court on 4<sup>th</sup> November, 2024 and proceeded to prosecute the application, she emphatically informed Court and insisted having properly effected service upon all parties. Indeed, she held having even filed proof of service in form of an affidavit of service through the C.T.S. Unfortunately, upon intense perusal of the C.T.S. the Court was never able to neither access nor trace down the said affidavit of service as required by the provisions of Order 5 Rule 15 of the Civil Procedure Rules 2010. Nonetheless, being a ‘pari materia’ fact, the Honourable Court shall be dealing with this issue indepth at a later stage of this ruling hereof.

#### **IV. An Affidavit in response to application dated 18<sup>th</sup> September, 2024**

- 9. Being a Court of record, while perusing the C.T.S. the Honorable Court came across a 15 Paragraphed above filed document sworn by yet another person who identified himself as being Eskon Rumwa. It was dated on 26<sup>th</sup> September, 2024. The Deponent while asserted to be responding and in essence opposing the application, averred as follows: -
  - a. He was a resident of the County of Mombasa – male adult of sound mind.
  - b. He was the 5<sup>th</sup> Defendant/Respondent in this case and well conversant with the facts of this case and hence duly competent to swear this affidavit in his own behalf.
  - c. The application dated 18<sup>th</sup> September, 2024 filed under the Certificate of Urgency was totally strange to him and he prayed that the same to be expunged out of court’s record forthwith.



- d. He was deeply exasperated by the fact that a reputable law firm by the name Messrs. H. Kago and Company Advocates could draft his name and forge a signature into hoodwinking the court into postponing a Judgment that was due for delivery on 18<sup>th</sup> September 2024 wasting judiciary time and the fact that litigation must come to an end.
- e. The purported application was bad in law and was choreographed to delay justice and hoodwink the court into believing that he had been denied justice while in fact he was aware of the progress of the case each time it came up in court.
- f. He had reported the forgery at the Central Police Station and was given an Occurrence Book (O.B.) No. 74 annexed as “ERI”
- g. He believed that this matter had taken too long and it was prudent that the same be dispensed with forthwith without further delay.
- h. He confirmed that he had no reason to delay this matter as he chose not to pursue it further as he believed the court would make a just and meritorious Judgment.
- i. It was in the interest of justice that all parties be given time to ventilate on the matter which the Honorable Court had graciously given more than enough time for any party to raise any issue and thus as time was of essence further delay should not be entertained.
- j. He prayed that the Honorable Court take firm action against the law firm and the Advocate who filed the purported application dated 18<sup>th</sup> September, 2024 and lied to court that it was himself who filed the application.
- k. At no given time had he been threatened by anyone as alleged in the forged application and if so he would have personally aired his predicaments before the court.
- l. It was not even true that he lived in the suit plot for more than twenty (20) years as this was a blatant lie aimed at hoodwinking the court.
- m. He prayed that as the matter came up on 18<sup>th</sup> September, 2024 let the court pronounce its judgment and put to an end side shows being advanced by his Co-Defendants to delay the matter indefinitely.
- n. He was ready to abide by the court’s pronouncement and therefore not part of the delay tactics at all.
- o. It should be on record that at no time had he engaged any law firm to act on his behalf in this matter and in any case any firm should produce instruction note and/or legal fees that he paid to warrant any representation in this case. He held that what he swore was true to the best of his knowledge, belief and understanding.

## **V. Analysis and Determination**

- 10. The Honorable Court has keenly and thoroughly considered all the pleadings filed in relation to the Notice of Motion application dated 18<sup>th</sup> September, 2024 by the 5<sup>th</sup> Defendant/Applicant, the responses, the relevant provisions of the *Constitution* of Kenya 2010 and the statutes.
- 11. For the court to arrive at a fair, just, equitable and reasonable decision it has framed the following three (3) salient issues for its determination. These are: -



- a. Whether the Notice of Motion application dated 18<sup>th</sup> September, 2024 by the 5<sup>th</sup> Defendant/Applicant has any merit
- b. Whether the 5<sup>th</sup> Defendant/Applicant is entitled to the relief sought.
- c. Who will bear the costs of the application

**Issue No. (a) Whether the Notice of Motion application dated 18<sup>th</sup> September, 2024 by the 5<sup>th</sup> Defendant/Applicant has any merit.**

12. Under this sub-heading the Court will deliver and examine a few issues in question as a guidance before arriving at the conclusion whether the Notice of Motion application dated 18<sup>th</sup> September, 2024 has any merit or not. These are as enumerated herein below:
  - a. Who exactly moved the Court through the filed application?
  - b. What was the application seeking?
  - c. Was the said application properly served upon all the parties?
  - d. Are the reliefs sought available to the Applicant?
  - e. The identity of the deponent in the Application and the Affidavit in response.
13. From the record before the Honourable Court the main contention is the actual identity of Mr. Ekon Rumwa. Apparently, there are two persons purporting to bear the same name and identity! The Court has taken cognizance to the fact that the Applicant who claims to be the 5<sup>th</sup> Defendant holds that he was joined as party to this matter but was never served with the relevant documents. He moved court through a Law Firm of Advocates trading in the names and style of Messrs. Kago & Company Advocates and whereby an Advocate Mr. Hiram Mukuna Kago filed the case under a Certificate of Urgency dated 18<sup>th</sup> September, 2024.
14. Indeed, through a sworn affidavit dated 18<sup>th</sup> September, 2024 the application deponed under the names Eskon Rumwa to be the 5<sup>th</sup> Defendant/Applicant and who had been in actual possession of the suit property for over twenty (2) years together with his family which established an equitable interest on the property. he alleged having faced intimidation and threats from individuals claiming he was falsely asserting ownership of the subject property which necessitated him to seek for injunctive orders from the lower court. He just recently came to learn that this court was about to pronounce its Judgment on 18<sup>th</sup> September, 2024 which cause him to engage an advocate and who upon perusing the court file established that this was the correct position. He denied ever having been served by the Plaintiff and as a result could not file a Defence nor participate in the hearing of the case. In actual fact he urged court to have him summon the court process server who ostensibly claim to have served him and all the witnesses in this matter for cross examination.
15. In accordance with the provisions of Order 19 of the Civil Procedure Rules 2010 govern the swearing of Affidavits. It holds thus:-

Order 19 Rule 1

“Any Court may at any time for sufficient reasons order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the hearing on such condition as the court thinks reasonable provided that, where it appears to the court that either party bona fide deserves the production of a witness for cross examination and that



such witness can be produced an order shall not be made authorizing the evidence of such witness to be given by affidavit. 2(1) upon any application evidence may be given by affidavit but the court may, at the instance of either party order the attendance for cross examination of the Deponent.

- (2) Such attendance shall be in court, unless the Deponent is exempted from personal appearance in court or the court otherwise directs”
16. From the records, the application was deponed by a Mr. Eskon Rimwa, posing ostensibly as the 5<sup>th</sup> Defendant/Applicant in this case. It was deponed on 18<sup>th</sup> September, 2024 and it bears his signature. I have noted that there is no empirical documentary attachment affixed onto the affidavit to support the facts of the matters in question. For instance, at least I would have expected that the Deponent to have attached a copy of his Kenyan National Identity Card bearing all the necessary particulars, a copy of the title deed or an official search tot e property he claims to have lived on continuously with family for over 20 years, a copy of the Affidavit of Service by the Process Server whom he wishes to cross examine and a copy of the intended Defence he wishes to rely on.
17. Without these documentary evidence it leaves the court in a very awkward position as “the Burden of Proof” based on the provisions of Sections 107 to 112 of the *Evidence Act* Cap 80 are on the Deponent and hence it puts the authenticity of the application and its contents to deep doubts.
18. During the hearing of the application, M/s. Mbugua Advocate for the 5<sup>th</sup> Defendant/Applicant while prosecuting it insisted that all the parties in this matter had been served and despite of that had filed to any responses. She buttressed the point by stating that there was filed an Affidavit of service. The Provisions of Order 5 Rule 15 (1) of the Civil Procedure Rules 2010 holds that: -
1. The serving officer in all cases in which summons has been served under any of the foregoing rules of this order shall swear and annex or cause to be annexed to the original summons an Affidavit of Service stating the time, when and the manner in which Summons was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of summons”
19. The law on service of documents in this level of Court is governed by Order 5 of the Civil Procedure Rules 2010 as amended in 2020, and supplemented by the Practice Directions for the Protection of Judges, Judicial Officers, Judiciary Staff, other Court Users and the General Public from the Risks Associated with the Global Corona Virus Pandemic, Gazette Notice No. 3137 of 2021 (herein referred to as Gazette 3137).
20. This provision of the law are couched in mandatory terms as prove of service. No such documents were filed nor displayed to court. Thus it’s my finding that none of the parties were ever properly served with the Notice of Motion application dated 18<sup>th</sup> September, 2024. It follows therefore that the application and the reliefs sought cannot be granted. (get authorities on this). Besides, there is an order that the Court arrest pronouncement of Judgment on 18<sup>th</sup> September, 2024, clearly that has already been overtaken by events but its neither here nor there as luckily court is still to deliver the judgment in the matter for all these reasons this application must not succeed.

### **Issue No. (b) Whether the 5<sup>th</sup> Defendant/Applicant is entitled to the relief sought**

21. Under this sub-title, the deliberation will be rather straight forward taking that the court has already held that the application should fail. However, from the pleadings, the contents of a documents termed as Responses to the affidavit by the 5<sup>th</sup> Defendant to the application dated 18<sup>th</sup> September, 2024 by the second person identifying himself as Mr. ESKON RUMWA is significant. The deponent in the



sworn affidavit dated 26<sup>th</sup> September, 2024 categorically refutes all the contents of the application and the affidavit sworn by the Applicant dated 18<sup>th</sup> September, 2024. In a nut shell he holds: -

- a. He was not the Deponent in the affidavits,
- b. His signature and name were forged and indeed he reported the matter to the police and investigations were underway.
- c. He never instructed the said Advocates nor any law firm to act for him – he challenged them to produce any instruction note of fees payable for the professional services rendered.
- d. He never lived on the suit property nor had he ever been intimidated or threatened by any person.
- e. He was always desirous that the long time dispute was resolved once and for all and he had been fully aware of the matter.

22. On admission to the Bar, all Advocates make an affirmation, as Officers of the Court. Section 15(4) of the Advocates Act provides that an aspiring Advocate: -

“shall take an oath or make an affirmation as an Officer of the Court before the Chief Justice in such form as he shall require, and shall thereafter sign the Roll in the presence of the Registrar or a Deputy Registrar who shall add his signature as witness.”

23. The status of an Advocate as an Officer of the Court, is expressly provided for in Section 55 of the Advocates Act. An Advocate, consequently, bears an obligation to promote the cause of justice, and the due functioning of the constitutionally-established judicial process - ensuring that the judicial system functions efficiently, effectively, and in a respectable manner. In that context, Advocates bear the ethical duty of telling the truth in Court, while desisting from any negative conduct, such as dishonesty or discourtesy. The overriding duty of the Advocate before the Court, is to promote the interests of justice, and of motions established for the delivery and sustenance of the cause of justice.

24. These principles are underlined also in the Law Society Act, which charges the Advocate with certain obligations (section 4):

- “(e) Set, maintain and continuously improve the standards of learning, professional competence and professional conduct for the provision of legal services in Kenya;
- (f) determine, maintain and enhance the standards of professional practice and ethical conduct, and learning for the legal profession in Kenya.
- (g) facilitate the realization of a transformed legal profession that is cohesive, accountable, efficient and independent.”

25. So much has, indeed, been the clear message emanating from judicial interpretation. And in “Francis Mugo & 22 Others – Versus - James Bress Muthee & 3 Others, Civil Suit No. 122 of 2005 [2005] eKLR”, Justice Musinga thus stated:

“While I agree that the choice of [counsel] is a prerogative of a party to a suit, it must be borne in mind that in the discharge of his office, an Advocate has a duty to his client, a duty to his opponent, a duty to the Court, a duty to himself, and a duty to the State, as well [expressed] by Richard Du Cann in *The Art of the Advocate*. As an Officer of the Court,



he owes allegiance to a cause that is higher than serving the interests of his client, and that is to the cause of justice and truth.”

26. It is clear, therefore, that Advocates, while discharging their duties, are under obligation to observe rules of professionalism, and in that behalf, they are to be guided by the fundamental values of integrity. There are extremely serious and weighty issues not to be wash away. The Honorable Court is perplexed and disturbed by the fact that despite of the alleged allegations the Advocates for the Applicant never found it needful to rebut or controvert them by filing a response or further Affidavit under the Provisions of Order 51 Rule 14 of the Civil Procedure Rules 2010. (get authorities on this)
27. The only main conclusion by the court is that these facts are authentic and believable. I have noted though the Court is not an expert on document examination but on open eye, the signature on the two documents are extremely distinct having been penned by two different persons raising serious issues on the authenticity. I suspect forgery and thus perjury by Advocates. But we leave that for another day.
28. Order 19 Rule 3 of the Civil Procedure Rules that;

“Matters to which affidavits shall be confined [Order 19, rule 3.]

- (1) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove:

Provided that in interlocutory proceedings, or by leave of the court, an affidavit may contain statements of information and belief showing the sources and grounds thereof.”

29. In “Obonyo Walter Oneya & Another – Versus - Jackline Anyango Ogude(Suing as the Administrator of the Estate of Fredrick Odhiambo Sewe (Deceased) [2018]eKLR” the court dealt with the issue of whether the supporting affidavit was defective and incompetent for want of capacity by the deponent. Githua J at paragraph 11 held that: -

“The fact that an insurer is required to be notified of the proceedings giving rise to the judgement and to satisfy the judgement obtained against its insured leave no doubt that the insurer has an interest in the proceedings leading to the judgement and in any appeal against that judgement and consequently, it is my view that a legal officer or any authorized officer of the insurer would be seized of information pertaining to the proceedings in the primary suit and any appeal lodged against the decision or decree arising therefrom and has capacity to swear an affidavit in either the suit or the appeal. In any case there is no law that provides that only co-litigants can swear affidavits in a matter. In my view, any person with information relevant to an action and who is duly authorized can swear an affidavit in the action...”

30. In the case of:- “Tahmeed Coach Limited & 2 others – Versus - Salim Mae Peku (Legal Representative of Sadiki Salim Peke (Deceased)) [2014] eKLR” Chitembwe J held that: -

“It is clear that this is a matter arising from a road accident. Ordinarily it is the insurance company that would be called upon to satisfy the decretal sum. The insurers of the accident vehicle were served with a statutory notice and although the “insurance company is not a party to the suit, it is interested in the outcome of the dispute. It is therefore, in order for one of the officers of the insurance company to swear an affidavit in support of the application. The legal officer of the insurance company cannot be held to be a stranger to the dispute.”



31. Additionally, the provision of Section 56 of the *Advocates Act*, grants this Honourable Court the disciplinary powers to reprimand and discipline Advocates. It holds inter alia”:-

“savings of disciplinary powers of the Court – Nothing in this Act shall supersede, lessen or interfere with the powers vested in the Chief Justice or any of the Judges of the Court to deal with misconduct or offences by an Advocate or any person or any person entitled to act as such, committed during or in the course of, or relating to, proceedings before the Chief Justice or any Judge”

32. To straighten the record and the integrity of the Court. the due process of the law and in order to deter such conducts from happening again in future, there will be need to issue Summons for Mr. Eskon Rumwa to appear in Court to ascertain these facts.

33. The provisions of Article 159 of the *Constitution* are not a cleanser of all short falls of the so-called technicalities including fraud and forgeries on record. In its view, the pattern of forgery and uttering false court documents demonstrates that the application herein has been instituted in gross abuse of court process and with the sole purpose of subverting and undermining the lawful exercise of statutory mandates by the Defendant’s advocate. Thus, the more reason the application must fail.

#### **Issue No. (c) Who will bear the costs of the application**

34. It is now well established that the issue of Costs is at the discretion of the Court. Costs meant the award that is granted to a party at the conclusion of the legal action, and proceedings in any litigation. The proviso of Section 27 (1) of the Civil Procedure Rules Cap. 21 holds that Costs follow the events. By the event, it means outcome or result of any legal action. This principle encourages responsible litigation and motivates parties to pursue valid claims. See the cases of “Harun Mutwiri – Versus - Nairobi City County Government [2018] eKLR and “Kenya Union of Commercial, Food and Allied Workers – Versus - Bidco Africa Limited & Another [2015] eKLR, the court reaffirmed that the successful party is typically entitled to costs, unless there are compelling reasons for the court to decide otherwise. In the case of “Hussein Muhumed Sirat – Versus - Attorney General & Another [2017] eKLR, the court stated that costs follow the event as a well-established legal principle, and the successful party is entitled to costs unless there are other exceptional circumstances.

35. However, in the instant case, it is just reasonable, fair and Equitable and with reliance to the case of “Malewa Ranching Company Limited – Versus – Joseph Nyutu Ng’ang’a & 146 others [2022] eKLR”, where the court opined that the Counsel for the Plaintiff/ Applicant in that matter was to pay the costs of the application that had been expunged personally, I proceed to award the costs of the application to be paid by Law firm of Messrs. H. Kago & Company Advocates personally to be awarded to the Plaintiff, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents.

#### **VI. Conclusion and Findings**

36. In the long run, having caused an in-depth analysis to the framed issues on the preponderance of probabilities and the balance of convenience, I proceed to make the following orders: -

- a. That the Notice of Motion application dated 18<sup>th</sup> September, 2024 be and is hereby dismissed as it lacks merit.
- b. That there be Witness Summons issued against Mr. Eskon Rumwa – the 5<sup>th</sup> Defendant to personally appear in court to verify the contents of the said filed Affidavits ostensibly sworn and filed in court dated 18<sup>th</sup> September, 2024 and 26<sup>th</sup> September, 2024 respectively pursuant



to the provisions of Order 19 Rules (1) and (2) of the Civil Procedure Rules 2010 on 19<sup>th</sup> November, 2024.

- c. That the Honorable Court to proceed to pronounce and deliver its Judgment accordingly on 2<sup>nd</sup> December, 2024.
- d. That costs of the Notice of Motion application dated 18<sup>th</sup> September, 2024 to be awarded to the Plaintiff, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents to be borne by the 5<sup>th</sup> Defendant/ Applicant or the Law firm of Messrs. H. Kago & Company Advocates.

It is so ordered accordingly.

**RULING DELIVERED THROUGH THE MICRO – SOFT TEAMS VIRTUAL MEANS SIGNED AND DATED AT MOMBASA THIS 12<sup>TH</sup> DAY OF NOVEMBER 2024.**

.....

**HON. MR. JUSTICE L.L NAIKUNI**  
**ENVIRONMENT AND LAND COURT AT**  
**MOMBASA**

**Ruling delivered in the presence of:-**

- a. M/s. Firdaus – the Court Assistant.
- b. M/s. Mbogua Advocate for the 5<sup>th</sup> Defendant/ Applicant.
- c. M/s. Songole Advocate for the Plaintiff/Respondent.
- d. No appearance for the 2<sup>nd</sup> Defendant/Respondent
- e. No appearance for the 4<sup>th</sup> Defendants/Respondent

**JUSTICE L.L. NAIKUNI**

